

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 CFR 1.9(f) AND 1.27 (c)) - SMALL BUSINESS CONCERN**

Docket No.
533/198

Serial No.
09/458,322

Filing Date
12/10/99

Patent No.

Issue Date

FEB 25 2000

Applicant/ Steven Jeffrey Zack, Christopher J.B. Goode, Long Ho Son, Andrew G. Fletcher and
Patentee: Kevin J. Borusiewicz

Invention:

**METHOD AND APPARATUS FOR PROVIDING IN-BAND MESSAGING WITHIN A VIDEO ON DEMAND
ENVIRONMENT**

I hereby declare that I am:

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: DIVA Systems Corporation

ADDRESS OF CONCERN: 800 Saginaw Drive, Redwood City, CA 94063

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the above identified invention described in:

- ☒ the specification filed herewith with title as listed above.
☐ the application identified above.
☐ the patent identified above.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed on the next page and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☒ no such person, concern or organization exists.
☐ each such person, concern or organization is listed below.

FULL NAME

ADDRESS

☐

Individual

☐

Small Business Concern

☐

Nonprofit Organization

FULL NAME

ADDRESS

☐

Individual

☐

Small Business Concern

☐

Nonprofit Organization

FULL NAME

ADDRESS

☐

Individual

☐

Small Business Concern

☐

Nonprofit Organization

FULL NAME

ADDRESS

☐

Individual

☐

Small Business Concern

☐

Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING:

Timothy N. Rea

TITLE OF PERSON SIGNING

Executive Vice President

OTHER THAN OWNER:

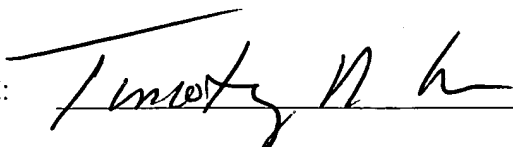
ADDRESS OF PERSON SIGNING:

c/o DIVA Systems Corporation

800 Saginaw Drive

Redwood City, CA 94063

SIGNATURE:



DATE:

1/28/00

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

This declaration is of the following type:

- ☒ original
☐ divisional
☐ continuation
☐ continuation-in-part

**INVENTORSHIP IDENTIFICATION**

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

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The specification of which:

- ☐ is attached hereto
☒ was filed on 12/10/99 , under Serial No. 09/458,322 , executed on even date herewith; or
☐ Express Mail No. _____ (as Serial No. not yet known)
and was amended on _____ (if applicable)
☐ was described and claimed in PCT International Application No. _____
filed on _____ and as amended under PCT Article 19 on _____ .

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

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- ☐ In compliance with this duty, there is attached an Information Disclosure Statement in accordance with 37 CFR §1.98.

PRIORITY CLAIM (35 U.S.C. §119)

I hereby claim priority benefits under Title 35, United States Code, §119, of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America or of any United States Provisional Application(s) listed below, and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one

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☒ No such applications have been filed.

☐ Such applications have been filed as follows:

A. Prior foreign/PCT/provisional application(s) filed within 12 mos. (6 mos. for design) prior to this application, and any priority claims under 35 U.S.C. §119

<u>Country/PCT</u>	<u>Application No</u>	<u>Date Filed</u>	<u>Priority Claimed</u>
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
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Country:

Application No:

Filing date:

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UNDER 35 U.S.C. §120 IS CLAIMED**

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		<u>Patented</u>	<u>Pending</u>	<u>Abandoned</u>
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned

POWER OF ATTORNEY

I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Charles Lee Thomason Reg. No. 31,431
Raymond R. Moser Jr. Reg. No. 34,682
Joseph Pagnotta Reg. No. 39,322
Kin-Wah Tong Reg. No. 39,400

Eamon J. Wall Reg. No. 39,414
R. Gale Rhodes Jr. Reg. No. 19833
Wan Yee Cheung Reg. No. 42,410

Send correspondence to:

Direct telephone calls to:

Thomason, Moser & Patterson LLP
The Galleria -- 2d Floor
2-40 Bridge Ave.
Post Office Box 8160
Red Bank, NJ 07701

Eamon J. Wall
732-530-9404

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Full name of sole or first inventor:

Inventor's signature: Steven Jeffrey Zack Date: 1/10/00

Residence: 1308 Oxmead Road, Burlington, NJ 08016
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of second inventor: Christopher W. B. Goode
~~Christopher W. B. Goode~~

Inventor's signature: _____ Date: _____

Residence: 722 Creek Drive, Menlo Park, CA 94025
Post Office Address: same as above

Country of Citizenship: ~~U.S.A.~~ Australia

Full name of third inventor: Yong Ho Son

Inventor's signature: _____ Date: _____

Residence: 535 Arastradero #310, Palo Alto, CA 94306
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of fourth inventor: Andrew G. Fletcher

Inventor's signature: _____ Date: _____

Residence: 6 Clifton Avenue, Merchantville, NJ 08109
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of fifth inventor: Kevin J. Borusiewicz

Inventor's signature: _____ Date: _____

Residence: 818 Roslofs Road, Yardley, PA 19067
Post Office Address: same as above

Country of Citizenship: U.S.A.

Full name of sixth inventor:

Inventor's signature: _____ Date: _____

Residence: _____
Post Office Address: _____

Country of Citizenship: _____

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

This declaration is of the following type:

- ☒ original
☐ divisional
☐ continuation
☐ continuation-in-part



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<u>Country/PCT</u>	<u>Application No</u>	<u>Date Filed</u>	<u>Priority Claimed</u>
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

B. All foreign application(s), if any, filed more than 12 mos. (6 mos for design) prior to this U.S. application

Country:

Application No:

Filing date:

**PRIOR U.S. APPLICATION(S) FOR WHICH BENEFIT
UNDER 35 U.S.C. §120 IS CLAIMED**

<u>Serial No.</u>	<u>Filing Date</u>	<u>Status</u>		
		<u>Patented</u>	<u>Pending</u>	<u>Abandoned</u>
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
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same as above

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U.S.A.

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Christopher J.B. Goode

Inventor's signature: _____

Date: 1/21/00

Residence:

Post Office Address: 722 Creek Drive, Menlo Park, CA 94025

same as above

Country of Citizenship:

~~U.S.A.~~
AUSTRALIA

Full name of third inventor:

Yong Ho Son

Inventor's signature: _____

Date: _____

Residence:

Post Office Address: 535 Arastradero #310, Palo Alto, CA 94306

same as above

Country of Citizenship:

U.S.A.

Full name of fourth inventor:

Andrew G. Fletcher

Inventor's signature: _____

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same as above

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Kevin J. Borusiewicz

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same as above

Country of Citizenship:

U.S.A.

Full name of sixth inventor:

Inventor's signature: _____

Date: _____

Residence:

Post Office Address:

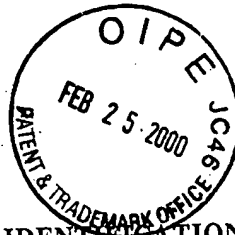
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same as above

Country of Citizenship:

~~U.S.A.~~ AUSTRALIA

Full name of third inventor:

Yong Ho Son

Inventor's signature: _____ Date: 1/24/00

Residence:

Post Office Address: 535 Arastradero #310, Palo Alto, CA 94306

same as above

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U.S.A.

Full name of fourth inventor:

Andrew G. Fletcher

Inventor's signature: _____ Date: _____

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Inventor's signature: _____ Date: _____

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same as above

Country of Citizenship:

U.S.A.

Full name of **second** inventor:

Christopher W.B. Goode

~~Christopher W.B. Goode~~

Inventor's signature: _____ Date: _____

Residence:

Post Office Address: 722 Creek Drive, Menlo Park, CA 94025

same as above

Country of Citizenship:

~~U.S.A.~~ Australia

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Yong Ho Son

Inventor's signature: _____ Date: _____

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same as above

Country of Citizenship:

U.S.A.

Full name of **fourth** inventor:

Andrew G. Fletcher

Inventor's signature: Andrew G. Fletcher Date: 1/10/2000

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same as above

Country of Citizenship:

U.S.A.

Full name of **fifth** inventor:

Kevin J. Borusiewicz

Inventor's signature: _____ Date: _____

Residence:

Post Office Address: 818 Roelofs Road, Yardley, PA 19067

same as above

Country of Citizenship:

U.S.A.

Full name of **sixth** inventor:

Inventor's signature: _____ Date: _____

Residence:

Post Office Address:

Country of Citizenship:

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

This declaration is of the following type:

- ☒ original
☐ divisional
☐ continuation
☐ continuation-in-part

**INVENTORSHIP IDENTIFICATION**

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

METHOD AND APPARATUS FOR PROVIDING IN-BAND MESSAGING WITHIN A VIDEO
ON DEMAND ENVIRONMENT

SPECIFICATION IDENTIFICATION

The specification of which:

- ☐ is attached hereto
☒ was filed on 12/10/99, under Serial No. 09/458,322, executed on even date
herewith; or
☐ Express Mail No. _____ (as Serial No. not yet known)
and was amended on _____ (if applicable)
☐ was described and claimed in PCT International Application No. _____
filed on _____ and as amended under PCT Article 19 on _____.

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56, and which is material to the examination of this application; namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and

- ☐ In compliance with this duty, there is attached an Information Disclosure Statement in accordance with 37 CFR §1.98.

PRIORITY CLAIM (35 U.S.C. §119)

I hereby claim priority benefits under Title 35, United States Code, §119, of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America or of any United States Provisional Application(s) listed below, and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one

country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

☒ No such applications have been filed.

☐ Such applications have been filed as follows:

A. Prior foreign/PCT/provisional application(s) filed within 12 mos. (6 mos. for design) prior to this application, and any priority claims under 35 U.S.C. §119

<u>Country/PCT</u>	<u>Application No</u>	<u>Date Filed</u>	<u>Priority Claimed</u>
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

B. All foreign application(s), if any, filed more than 12 mos. (6 mos for design) prior to this U.S. application

Country:

Application No:

Filing date:

**PRIOR U.S. APPLICATION(S) FOR WHICH BENEFIT
UNDER 35 U.S.C. §120 IS CLAIMED**

<u>Serial No.</u>	<u>Filing Date</u>	<u>Status</u>		
		<u>Patented</u>	<u>Pending</u>	<u>Abandoned</u>
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned
		<input type="checkbox"/> patented	<input type="checkbox"/> pending	<input type="checkbox"/> abandoned

POWER OF ATTORNEY

I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Charles Lee Thomason	Reg. No. 31,431	Eamon J. Wall	Reg. No. 39,414
Raymond R. Moser Jr.	Reg. No. 34,682	R. Gale Rhodes Jr.	Reg. No. 19833
Joseph Pagnotta	Reg. No. 39,322	Wan Yee Cheung	Reg. No. 42,410
Kin-Wah Tong	Reg. No. 39,400		

Send correspondence to:

Direct telephone calls to:

Thomason, Moser & Patterson LLP
The Galleria -- 2d Floor
2-40 Bridge Ave.
Post Office Box 8160
Red Bank, NJ 07701

Eamon J. Wall
732-530-9404

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these

statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Sec. 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full name of sole or first inventor:

Steven Jeffrey Zack

Inventor's signature: _____ Date: _____

Residence:

Post Office Address: 1308 Oxmead Road, Burlington, NJ 08016

same as above

Country of Citizenship:

U.S.A.

Full name of second inventor: Christopher W. B. Goode

~~Christopher W. B. Goode~~

Inventor's signature: _____ Date: _____

Residence:

Post Office Address: 722 Creek Drive, Menlo Park, CA 94025

same as above

Country of Citizenship:

~~U.S.A.~~ Australia

Full name of third inventor:

Yong Ho Son

Inventor's signature: _____ Date: _____

Residence:

Post Office Address: 535 Arastradero #310, Palo Alto, CA 94306

same as above

Country of Citizenship:

U.S.A.

Full name of fourth inventor:

Andrew G. Fletcher

Inventor's signature: _____ Date: _____

Residence:

Post Office Address: 6 Clifton Avenue, Merchantville, NJ 08109

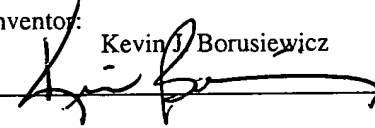
same as above

Country of Citizenship:

U.S.A.

Full name of fifth inventor:

Kevin J. Borusiewicz

Inventor's signature:  Date: 1/10/00

Residence:

Post Office Address: 818 Roelofs Road, Yardley, PA 19067

same as above

Country of Citizenship:

U.S.A.

Full name of sixth inventor:

Inventor's signature: _____ Date: _____

Residence:

Post Office Address:

Country of Citizenship: